



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

HM12/0002

CALGENE, INC.
1920 FIFTH ST.
DAVIS CA 95616

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
07/762,762	09/16/91	026	LEGUYADER, J	1635 08/02/99
First Named Applicant	THOMPSON,	35 USC 154(b) term ext. = 0 Days.		

TITLE OF INVENTION PLANT DESATURASES COMPOSITIONS AND USES

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
1	CGNE-69-4	435-134.000	W48 UTILITY	NO	\$1210.00	11/02/99

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
07/762,762	09/16/91	THOMPSON	G CGNE-69-4

CALGENE, INC.
1920 FIFTH ST.
DAVIS CA 95616

HM12/0802

EXAMINER

LEGUYADER, J.
ART UNIT PAPER NUMBER

1635

DATE MAILED:

08/02/99

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

NOTICE OF ALLOWABILITY

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

- ☒ This communication is responsive to the amendment filed 7/27/99
- ☒ The allowed claim(s) is/are 18, 21, 26, 33, 36, 41, 67-71, 73, 74, 77, 78 + 80-92
- ☐ The drawings filed on _____ are acceptable.
- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
- ☒ Applicant MUST submit NEW FORMAL DRAWINGS
- ☐ because the originally filed drawings were declared by applicant to be informal.
- ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. 16.
- ☐ including changes required by the proposed drawing correction filed on _____, which has been approved by the examiner.
- ☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

- ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Interview Summary, PTO-413
- ☒ Examiner's Amendment/Comment
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☒ Examiner's Statement of Reasons for Allowance

File Copy

Application/Control No. 07/762,762
Art Unit 1635

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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Rae-Venter on or about 7/28/99.

Claims 35 and 75 have been can canceled.

The following is an examiner's statement of reasons for allowance:

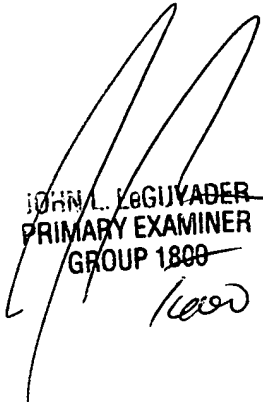
This application was reviewed to determine whether the rejections remain tenable in view of recent court decisions and examination guidelines promulgated by the PTO. During the course of the review, it was determined that allowable subject matter is present. The reasons for withdrawing the rejections of record are as follows: The claimed invention is drawn to further methods of making/regulating fatty acids and their production in plants with recombinant constructs encoding delta 9 desaturase genes by specific nucleotide and/or amino acid sequence (see instant Figure 1), which genes had been found to free of the prior art and issued in applicants' related U.S. Patent 5,723,595, Thompson et al. The restriction requirement of record mailed on 10/9/92, which restricted the instant method claims from the DNA constructs encoding delta 9 desaturases, precludes the need to raise any double patenting.

Any comments considered necessary by applicant must be submitted no later than the

payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to John L. LeGuyader at telephone number (703) 308-0447. Please note that the examiner's compressed workweek day off is every Friday.

John L. LeGUYADER
July 29, 1999


JOHN L. LeGUYADER
PRIMARY EXAMINER
GROUP 1800
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